IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition No. 279 of 2007 (M/B)

Kapil Kohli S/o Sri Harbans Lal Kohli,
R/o Kohli Sanitary Store,
Kaladhungi Road, Haldwani,
District Nainital. …….. Petitioner

Versus

1. Union Bank of India,
having its Regional Office at Radha Palace,
78 Rajpur Road, Dehradun,
through its Deputy General Manager.
2. Authorised Officer, Union Bank of India,
Regional Office at Radha Palace,
78 Rajpur Road, Dehradun.
3. Union Bank of India,
Branch Rudrapur,
District Udham Singh Nagar,
Through its Branch Manager. ..…. Respondents

Mr. Lalit Belwal, Advocate for the petitioner.
Mr. B.S. Khanka, Advocate for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C. J. (Oral)

Mr. Lalit Belwal, Advocate for the petitioner.

Mr. B.S. Khanka, Advocate for the respondents.

They are heard.

2. Petitioner Kapil Kohli has filed this writ petition for the following reliefs:

> "(a) Issue a writ, order or direction in the nature of certiorari quashing the notice dated 31.01.2007 issued by the respondent no. 2 under Section 13(2) of the Act (contained in Annexure No. 4).
>
> (b) Issue a writ, order or direction in the nature of mandamus directing the Respondent No. 1 and 2 not to take any coercive steps against the petitioner and further

not to take possession of the property detailed in the notice dated 31.01.2007.

(c) Such other relief be granted which this Hon'ble Court may deem fit and proper under the facts and circumstances of the case and also award cost to the petitioner."

3. Thus, it is apparent that the petitioner is seeking quashing of the notice dated 31.01.2007 issued by respondent No. 2 Union Bank of India under Section 13(2) of The Securitisation & Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

4. In view of the dictum of the Apex Court in the case of **Mardia Chemicals Ltd. & others Vs. Union of India & others** reported in **(2004) 4 SCC 311,** the present writ petition is not maintainable at all.

5. The writ petition, therefore, is dismissed as not maintainable leaving it to the discretion of the respondent Bank to proceed further or not with the proceedings initiated against the petitioner under the Act in view of the alleged payments made by the petitioner towards the dues.

6. Consequently, the interim orders dated 21.03.2007, 28.03.2007 and 09.04.2007 stand vacated automatically.

(J.C.S. Rawat, J.) 04.05.2007

(Rajeev Gupta, C.J.) 04.05.2007

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